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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,881	09/08/2003	Augusto D. Hernandez	08215-549001 / P06-026886	8107
26171 7590 02/02/2007 FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER SMITH, RICHARD A	
			ART UNIT	PAPER NUMBER
			2859	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/02/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/656,881

Applicant(s)

HERNANDEZ ET AL.

Examiner

R. Alexander Smith

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 23-25 and 28 is/are rejected.
- 7) ☒ Claim(s) 7-22, 26 and 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 1-6, 23, 24 and 28 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over US 3,092,071 A to Simpson, Jr. et al. in view of US 5,506,791 to Hungerford et al.

Simpson, Jr. et al. discloses a position indicator having an input shaft 32 having an angular velocity, a display includes a pointer 23 to indicate a position of a tap changer (column 2, lines 65-72) and the pointer has an angular velocity, a non-linear drive mechanism (figures 2-5), the mechanism includes a Geneva type mechanism and motion includes a dwell (figures 3-5 and associated text), a housing 21 to house the position indicator display, and the pointer being mounted on the drive mechanism (the drive mechanism includes shaft 24).

Simpson, Jr. et al. does not disclose a polymer housing, a one piece clear polymer cover, a hinge with first and second portions, and a hand operable latch.

Hungerford et al. discloses an indicator with mechanism which is housed in a polymer housing, a one piece clear polymer cover, a hinge and latch as shown in figures 1 and 4 and discussed in column 6, lines 24-48 which states the advantages of impact resistance, resistance to stresses from mounting and harsh conditions, water-tightness, dust-tightness and corrosion resistant. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the housing for the position indicator, taught by Simpson, Jr. et al., by making the housing a polymer housing, and adding a one piece clear polymer cover, a hinge and latch to the housing, as suggested by Hungerford et al., in order to provide impact resistance, resistance to stresses from mounting and harsh conditions, dust resistant and corrosion resistant, as taught by Hungerford et al., and to allow easier servicing of the components of the position indicator when needed.

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3. Claim 25 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over Simpson, Jr. et al. and Hungerford et al. as applied to claims 1-6, 23, 24 and 28, further in view of US 2,800,248 to Truesdell et al.

Simpson, Jr. et al. and Hungerford et al. together teach all that is claimed as discussed in the above rejections of claims 1-6, 23, 24 and 28. Furthermore, Hungerford et al. discloses a circumferential lip on the cover as best seen in figures 3 and 4 (unmarked, i.e., roughly where latches 6B grab).

Simpson, Jr. et al. and Hungerford et al. do not teach a compliant gasket positioned within groove of the housing such that the gasket interfaces with the circumferential lip on the cover.

Truesdell et al. discloses an instrument housing having a housing and a removable cover wherein a gasket (15 in figure 3) is positioned within a groove (14) so that when the cover is attached to the housing the joint is sealed. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the housing, taught by Simpson, Jr. and Hungerford et al., to include a groove and a gasket therein, as taught by Truesdell et al., in order to seal the joint between the cover and the housing so as to provide additional protection of the instrument or components therein from the environment.

Response to Arguments

4. Applicant's arguments filed October 31, 2006 have been fully considered but they are not persuasive.

With respect to Hungerford's enclosure complexity and no suggestion to modify the housing of Simpson to include the door of Hungerford as argued on pages 8-9: This argument is not persuasive since the applied rejection did not include the adding of the door as taught by Hungerford. The rejection was drawn to modify the housing, taught by Simpson, to include a polymer, and to add a one piece polymer cover, a hinge and a latch to the housing, as suggested by Hungerford.

With respect to Simpson teaching away from a use of a cover and Hungerford's use of the door: Simpson discloses that his indicating device is mounted from the front into a housing and secured thereto by any suitable means and as shown appears to disclose that the pointer 23 and dial face 22 are exposed to any environmental condition, such as dust, water, oil, or simply an accidental bump with a finger or elbow damaging the needle or dial. Hungerford discloses an indicating instrument with an enclosure wherein the indicating device is also mounted therein from the front and teaches the advantages of a polymer housing, and a thermoplastic transparent protective cover to assist in protecting the front panel to the indicating device mounted therein. Hungerford teaches to one of average skill in the art at the time of the invention that an instrument and its front accessible face needs to be protected from the environmental, whether extreme such as submersible or more common such as dust, corrosion, impact or accidental contact, etc., while still being readily accessible and serviceable via a protective door. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to

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modify the housing for the position indicator, taught by Simpson, Jr. et al., by making the housing a polymer housing, and adding a one piece clear polymer cover, a hinge and latch to the housing, as suggested by Hungerford et al., in order to provide impact resistance, resistance to stresses from mounting and harsh conditions, dust resistant and corrosion resistant, as taught by Hungerford et al., and to allow easier servicing of the components of the position indicator when needed.

Allowable Subject Matter

5. Claims 7-22, 26 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

6. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Conclusion

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7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

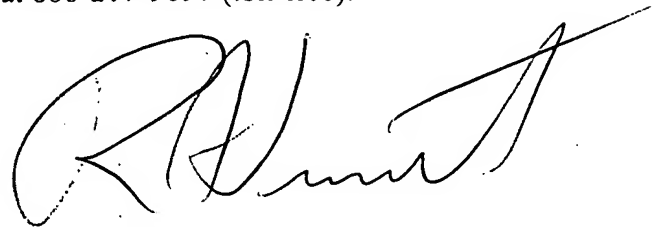
8. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The prior art cited in PTO-892 and not mentioned above disclose related indicators or components thereof.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Alexander Smith whose telephone number is 571-272-2251. The examiner can normally be reached on Monday through Friday from 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on 571-272-2245. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'R. Alexander Smith', with a long horizontal stroke extending to the right.

R. Alexander Smith
Primary Examiner
Technology Center 2800

RAS
January 31, 2007